



Agenda Date: 12/5/03
Agenda Item: 8A

STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.bpu.state.nj.us

AUDITS

IN THE MATTER OF THE FOCUSED AUDIT OF)
ELIZABETHTOWN GAS COMPANY, NUI)
UTILITIES, INC. AND NUI CORPORATION)
)

ORDER

DOCKET NO. GA03030213

(SERVICE LIST ATTACHED)

BY THE BOARD:

At its March 20, 2003 agenda meeting, the Board of Public Utilities ("Board") directed the initiation of a focused audit of Elizabethtown Gas Company ("Elizabethtown Gas" or "ETG"), a gas public utility and division of NUI Utilities, Inc. ("NUI Utilities"). The Board initiated the focused audit of NUI Utilities and its parent holding company, NUI Corporation ("NUI"), and all of its subsidiaries (collectively, all of the foregoing are at times referred to herein as "the company"). The Board initiated the focused audit because credit downgrades of the senior unsecured debt of NUI and NUI Utilities, as well as concerns raised during a competitive services audit of Elizabethtown Gas in Docket No. GA02020099, substantiated the need for an in-depth review of the financial practices of the company and its affiliates. Subsequent to that action, NUI and NUI Utilities were downgraded for the fourth time by Moody's Investors Services on May 7, 2003 and for the fifth time on October 10, 2003. The resulting Moody's ratings, for both NUI and NUI Utilities, described the firms' rated senior unsecured debt as "speculative grade," also referred to as "below investment grade." As a result of the negative impact on the company arising from recent credit downgrades and adverse business conditions, NUI announced the sale of the company on September 26, 2003.

The Board has received Liberty Consulting, Inc.'s ("Liberty") Interim Focused Audit Report, which is currently being reviewed by the Board and its Staff. The Board expects to release the report at the next agenda meeting on December 17, 2003.

In fulfilling its duties to the ratepayers and the public under N.J.S.A. 48:2-1 et seq., the Board **FINDS** that certain measures must be immediately ordered, as set forth below, to assure safe, adequate and proper service at just and reasonable rates. These measures are in addition to the steps taken by the Board in its prior Orders. In sum, these measures address the critical issues of cash conservancy, examination of the company's rates and termination of any relationship between NUI Energy Brokers and NUI Utilities and Elizabethtown Gas.

For the foregoing reasons, the Board HEREBY ORDERS:

1. NUI Utilities and ETG shall cease purchasing gas from NUI Energy Brokers, Inc., and shall purchase gas through a plan to be provided to the Board by noon on January 2, 2004, to be effectuated subject to Board approval by January 8, 2004. This plan shall also include any transfers to NUI Utilities or ETG of NUI Energy Brokers, Inc. personnel.
2. All agreements for compensation expenditures, the costs of which are paid, or to be paid, in whole or any part by ETG shall be submitted to the Board for approval. As set forth by our October 30, 2003 Order in this matter, compensation expenditure agreements shall include, but are not limited to, insurance, deferred compensation, change in control agreements and retention bonuses. The agreements shall address the impact, if any, on the company's pension fund.
3. ETG shall not pay any allocated costs of any agreements, retainers or arrangements for consultants and other professional services and other expenditures incurred in connection with or as a result of the focused audit and/or financial difficulties of NUI Corporation unless approved by the Board.
4. As set forth by our September 16, 2003 Order in In the Matter of the Petition of NUI Utilities, Inc. d/b/a Elizabethtown Company to (1) Revise its Periodic Basic Gas Supply Service Rate, (2) Revise its Commodity Rates for Commercial and Industrial Air Conditioning and Distributed Generation Uses and Seasonal Delivery Services, and (3) Make Other Tariff Changes, Docket No. GR03050423 ("BGSS"), NUI Utilities d/b/a ETG must refrain from issuing any special dividends without prior Board approval. Further, NUI Utilities d/b/a ETG shall not increase its regular dividends.

Furthermore, the Board will address the ratemaking consequences of actions set forth in the Interim Focused Audit Report on a prompt and expeditious basis. In addition, ETG's petition for an increase in BGSS rates, Docket. No. GR03050423, pending at the Office of Administrative Law, shall be returned to the Board for hearing and examination of the provisional rates approved by Order dated September 16, 2003.

The Board reserves the right to take further action in this matter, as may be hereafter determined to be appropriate.

DATED: 12/11/03

BOARD OF PUBLIC UTILITIES
BY:

(SIGNED)

JEANNE M. FOX
PRESIDENT

(SIGNED)

FREDERICK F. BUTLER
COMMISSIONER

(SIGNED)

CAROL J. MURPHY
COMMISSIONER

(SIGNED)

CONNIE O. HUGHES
COMMISSIONER

(SIGNED)

JACK ALTER
COMMISSIONER

ATTEST:

(SIGNED)

KRISTI IZZO
SECRETARY